REMARKS

Claims 1-5, 7-19 and 33-42 remain pending in the captioned application as amended in the response filed on November 6, 2008. No further amendments to the claims are submitted herewith.

On May 27, 2009 a final Office action was mailed provisionally rejecting claims 1-5, 7-19 and 33-42 on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 7-20 of co-pending application no 10/362,148. Applicants submit herewith a Terminal Disclaimer, disclaiming the terminal portion of the patent term of the captioned application that would extend beyond the expiration of the full statutory term of co-pending application no 10/362,148. The Director is hereby authorized to charge the Terminal disclaimer filing fee of $70.00 (small entity) as well as any other fees necessary to effect this filing, to the Account of Barnes & Thornburg, Deposit Account No. 10-0435, with reference to our matter 43387-73239. The filing of the Terminal disclaimer is believed to obviate the provisional rejection of claims 1-5, 7-19 and 33-42.

Claims 1-5, 7-19 and 33-42 also stand rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12 of US Patent No. 7,527,803. Applicants submit herewith a Terminal Disclaimer, disclaiming the terminal portion of the patent term of the captioned application that would extend beyond the expiration of the full statutory term of US Patent No. 7,527,803. The Director is hereby authorized to charge the Terminal disclaimer filing fee of $70.00 (small entity) as well as any other fees necessary to effect this filing, to the Account of Barnes & Thornburg, Deposit Account No. 10-0435, with reference to our matter 43387-73239. The filing of the Terminal disclaimer is believed to obviate the rejection of claims 1-5, 7-19 and 33-42 for nonstatutory obviousness-type double patenting.

Although applicants are not aware of any prior art reference more pertinent to patentability of the claimed invention than those already of record, applicants note that additional art references have been cited in related co-pending applications 10/550,427, 10/550,439, 10/793,721 (now US Patent No. 7,527,803), 10/362,148 and abandoned application no 10/253,300 that are not of record in the present application. Accordingly, in an abundance of caution, applicants submit herewith a supplemental Information Disclosure Statement submitting each of those references for review by the Examiner. The filing of this Statement shall not be construed to be an admission that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. § 1.56(b). No representation is intended that a complete search has been made of the prior art or that no better art references are available.

Furthermore, applicants provide the following information pursuant to 37 C.F.R. § 1.56 and the holding of the Federal Circuit Court of Appeals in the case *Dayco Products, Inc. v. Total*

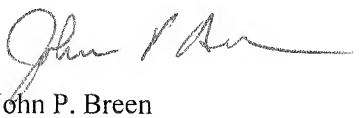
Containment, Inc., 329 F.3d 1358, 66 U.S.P.Q.2d 1801 (Fed. Cir. 2003). In the *Dayco* case, it was held that a rejection of a substantially similar claim in a co-pending United States application being examined by another examiner is considered material to patentability. In an abundance of caution, and without any admission that the claims of co-pending application no 10/362,148 are substantially similar, applicants are advising the Examiner that the claims of co-pending application no 10/362,148 are currently being rejected based on the teachings of Wu et al, US Patent No. 6,805,898. A copy of the final Office Actions issued on 5/27/09 for US serial no. 10/362,148 is listed on the Supplemental IDS submitted herewith and a copy is enclosed.

For the reasons stated in our supplemental Response filed on February 18, 2009, applicants believe the claimed invention is patentably distinct over the cited Wu et al reference. In particular, applicants have found that preparing polymer surface features having dimensions below 100 nm produces significant and surprising results. The prior art (including Wu et al) fails to teach or suggest that any benefit could be derived from preparing compositions having surface features with dimensions of less than 100 nm.

We believe that in co-pending application no. 10/362,148 Examiner Stewart has failed to appreciate the unexpected properties associated with applicants' claimed surface dimensions. Furthermore, his comments regarding "optimization" fail to address the fact that those skilled in the art had no appreciation that nano-sized (i.e., less than 100 nm) surface features represented a result-effective variable (i.e., a variable which achieves a recognized result). Thus modification of the prior art to generate the present invention was not obvious (See *In re Antonie*, 559 F.2d 618, 195 USPQ 6 (CCPA 1977).

The claimed invention is believed to be in condition for allowance. If any further discussion of this matter would speed prosecution of this application, the Examiner is invited to call the undersigned at (434) 220-2866.

Respectfully submitted,



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